

JOSEPH P. RUSSONIELLO (SNB 44332)
 United States Attorney
 JOANN M. SWANSON (CSBN 88143)
 Assistant United States Attorney
 Chief, Civil Division
 ABRAHAM A. SIMMONS (SBN 146400)
 Assistant United States Attorney

450 Golden Gate Avenue, Box 36055
 San Francisco, California 94102
 Telephone: (415) 436-7264
 Facsimile: (415) 436-6748
 Email: abraham.simmons@usdoj.gov

Attorneys for Federal Defendant

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

SHANNON O. MURPHY,

Plaintiff,

v.

UNITED STATES ARMY NATIONAL
 GUARD (CALIFORNIA), BATTERY S, 143RD
 FIELD ARTILLERY,

Defendant.

Case No. 08-763 PJH

**[PROPOSED] ORDER RE:
 MOTION TO DISMISS**

Defendant's motion to dismiss the complaint with prejudice having regularly come on for hearing before the Court, and having read and considered the papers submitted in support thereof, and the parties having been afforded the opportunity to be heard, and good cause appearing therefor,

IT IS HEREBY ORDERED that defendant's Motion To Dismiss is granted. Plaintiff's claims are barred by the doctrine of sovereign immunity. Any claims plaintiff might have been able to file pursuant to 28 U.S.C. § 2675 are barred because plaintiff has failed to file an administrative claim, which is a jurisdictional prerequisite to suit. The complaint and action are **dismissed with prejudice**.

IT IS SO ORDERED.

DATED:

HON. PHYLLIS J. HAMILTON
 United States District Judge

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee of the Office of the United States Attorney for the Northern District of California and is a person of such age and discretion to be competent to serve papers. The undersigned further certifies that she is causing a copy of the following:

Proposed Order Re: Re-Notice on Motion to Dismiss

to be served this date upon the party in this action by placing a true copy thereof in a sealed envelope, and served as follows:

- ☒ FIRST CLASS MAIL by placing such envelope(s) with postage thereon fully prepaid in the designated area for outgoing U.S. mail in accordance with this office's practice.
- ☐ CERTIFIED MAIL (#) by placing such envelope(s) with postage thereon fully prepaid in the designated area for outgoing U.S. mail in accordance with this office's practice.
- ☐ PERSONAL SERVICE (BY MESSENGER)
- ☐ FEDERAL EXPRESS via Priority Overnight
- ☐ EMAIL
- ☐ FACSIMILE (FAX)

to the party(ies) addressed as follows:

Shannon O. Murphy, Pro Se
General Delivery
El Cerrito, CA 94530
PH: 510.219.9180

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this March 4, 2008 at San Francisco, California.

/s/
LILY HO-VUONG
Legal Assistant